



February 21, 2001

HOUSE BILL No. 1764

DIGEST OF HB 1764 (Updated February 19, 2001 8:35 PM - DI 98)

Citations Affected: IC 4-6; IC 11-10; noncode.

Synopsis: Medical care to prisoners. Requires an independent medical review committee to review the sufficiency of medical care contracts entered into or renewed by the department of correction and related medical directives adopted by the department of correction to determine whether the proposed contract and directives are sufficient to ensure that a qualified medical professional providing services under the proposed contract will be able to provide services in conformity with the standard of care that the qualified medical professional is required to meet in the provision of medical care in Indiana. Requires the attorney general to defend malpractice suits brought against health care providers who treat offenders committed to the department of correction when the offender is transported to a hospital emergency room for treatment of a traumatic injury or medical emergency.

Effective: January 1, 2001; July 1, 2001.

Pelath, Budak

January 17, 2001, read first time and referred to Committee on Human Affairs.
February 20, 2001, amended, reported — Do Pass.

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February 21, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1764

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-6-2-1.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1.5. (a) Whenever
3 any state governmental official or employee, whether elected or
4 appointed, is made a party to a suit, and the attorney general determines
5 that said suit has arisen out of an act which such official or employee
6 in good faith believed to be within the scope of his duties as prescribed
7 by statute or duly adopted regulation, the attorney general shall defend
8 such person throughout such action.
9 (b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party
10 to a civil suit, and the attorney general determines that the suit has
11 arisen out of an act that the teacher in good faith believed was within
12 the scope of the teacher's duties in enforcing discipline policies
13 developed under IC 20-8.1-5-2(e), the attorney general shall defend the
14 teacher throughout the action.
15 (c) **Whenever a health care provider (as defined in**
16 **IC 16-18-2-163(c)) is made party to a malpractice (as defined in**
17 **IC 34-18-2-18) suit, and the attorney general determines that:**

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1 (1) the malpractice claim relates to medical services provided
 2 to an offender, who at the time the claim arose was committed
 3 to the department of correction;

4 (2) the offender was transported to a hospital emergency
 5 room for treatment of a traumatic injury or medical
 6 emergency; and

7 (3) the department of correction authorized the offender's
 8 transport to the hospital emergency room;

9 the attorney general shall defend the health care provider
 10 throughout such action.

11 (d) A determination by the attorney general under subsection (a) or
 12 (b) shall not be admitted as evidence in the trial of any such civil action
 13 for damages.

14 (d) (e) Nothing in this chapter shall be construed to deprive any
 15 such person of his right to select counsel of his own choice at his own
 16 expense.

17 SECTION 2. IC 11-10-3-6 IS ADDED TO THE INDIANA CODE
 18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 19 1, 2001]: Sec. 6. (a) The department shall submit:

20 (1) all proposed contracts for the provision of medical care to
 21 be provided to committed individuals, including treatment for
 22 mental retardation, alcoholism, and drug addiction; and

23 (2) a copy of the latest directives adopted under section 4 of
 24 this chapter;

25 to the state health commissioner of the state board of health at least
 26 ninety (90) days before soliciting a contractor to provide services
 27 under the contract.

28 (b) Upon receiving the proposed contract and directives under
 29 subsection (a) the state health commissioner shall appoint an
 30 independent medical review committee to review the terms of the
 31 proposed contract and the directives. The appointed committee
 32 must have three (3) members who are qualified medical
 33 professionals.

34 (c) The appointed committee shall review the proposed contract
 35 and directives to determine whether the terms of the proposed
 36 contract and directives are sufficient to ensure that a qualified
 37 medical professional providing services under the proposed
 38 contract will be able to provide services in conformity with the
 39 standard of care that the qualified medical professional is required
 40 to meet in the provision of medical care in Indiana. The medical
 41 review committee shall issue a written determination not more
 42 than thirty (30) days after the state health commissioner receives



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1 the proposed contract and directives under subsection (a). The
 2 medical review committee may include recommendations to the
 3 department.

4 (d) The medical review committee shall report any findings of
 5 insufficiency to the department and the state health commissioner.

6 (e) The department may not enter into a contract to provide
 7 medical services to offenders until:

8 (1) the department has complied with subsection (a); and

9 (2) either:

10 (A) a medical review committee established under
 11 subsection (b) has determined that the proposed contract
 12 and the directives adopted under section 4 of this chapter
 13 are sufficient to ensure that a qualified medical
 14 professional providing services under the proposed
 15 contract will be able to provide services in conformity with
 16 the standard of care that the qualified medical professional
 17 is required to meet in the provision of medical care in
 18 Indiana; or

19 (B) ninety (90) days have elapsed after the department has
 20 complied with subsection (a), if a medical review
 21 committee has taken no action to comply with subsections
 22 (c) and (d).

23 SECTION 3. [EFFECTIVE JANUARY 1, 2001] IC 4-6-2-1.5, as
 24 amended by this act, applies only to a cause of action that accrues
 25 after June 30, 2001.

26 SECTION 4. [EFFECTIVE JULY 1, 2001] IC 11-10-3-6, as added
 27 by this act, applies only to contracts for medical care entered into
 28 or renewed by the department of correction after October 1, 2001.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1764, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-2-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 1.5. (a) Whenever any state governmental official or employee, whether elected or appointed, is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of his duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-6.1-1-8) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-8.1-5-2(e), the attorney general shall defend the teacher throughout the action.

(c) **Whenever a health care provider (as defined in IC 16-18-2-163(c)) is made party to a malpractice (as defined in IC 34-18-2-18) suit, and the attorney general determines that:**

(1) the malpractice claim relates to medical services provided to an offender, who at the time the claim arose was committed to the department of correction;

(2) the offender was transported to a hospital emergency room for treatment of a traumatic injury or medical emergency; and

(3) the department of correction authorized the offender's transport to the hospital emergency room;

the attorney general shall defend the health care provider throughout such action.

(d) A determination by the attorney general under subsection (a) or (b) shall not be admitted as evidence in the trial of any such civil action for damages.

~~(d)~~ (e) Nothing in this chapter shall be construed to deprive any such person of his right to select counsel of his own choice at his own expense."

Page 2, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 2. [EFFECTIVE JANUARY 1, 2001] **IC 4-6-2-1.5, as**

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amended by this act, applies only to a cause of action that accrues after June 30, 2001."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1764 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 0.

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